



STAMP & RETURN

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VIA HAND DELIVERY AND EMAIL

Federal Communications Commission
Bureau / Office

Ms. Susan L. Kimmel
Deputy Chief, Disability Rights Office
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: KFWD(TV), Fort Worth, Texas
Facility Identification Number 29015
FCC File Number 14-C00614134-1(Hale)(KFWD-TV)
Response to Notice of Informal Complaint

Dear Ms. Kimmel:

On behalf of HIC Broadcast, Inc. ("HIC"), licensee of KFWD(TV), Fort Worth, Texas, we hereby submit HIC's response to an October 22, 2014 letter from the Commission's Consumer & Governmental Affairs Bureau (the "Letter").¹ The Letter forwarded a complaint from Mr. Ron Hale, who complained that the programming on KFWD's primary video stream lacks closed captions.² Given the importance with which HIC takes its responsibilities to serve local communities, HIC commenced a thorough investigation. HIC is pleased to be able to respond to the Commission and to send a copy of its response directly to Mr. Hale today.

HIC takes seriously all viewer comments and concerns and attempts to resolve any captioning issues promptly. In this instance, however, FCC rules do not require HIC to caption programming that airs on its primary video stream. HIC's only obligation is to ensure that all captions it receives are passed through intact – an obligation with which HIC fully complies. HIC's review of its records and closed captioning equipment revealed no recent anomalies in the pass through of closed captions. Therefore, HIC is confident that it fully complied with its obligation to pass through all closed captions.

¹ *Notice of Informal Complaint*, from Susan L. Kimmel, Deputy Chief, Disability Rights Office, Consumer & Governmental Affairs Bureau, Federal Communications Commission, to KFWD(TV), File No. 14-C00614134-1 (Hale)(KFWD-TV).

² Mr. Hale also suggests that the programming on KFWD is constitutionally required to be captioned in English. The Commission's rules require that Spanish language programming be captioned in Spanish, and HIC does not comment on the constitutionality of the Commission's closed captioning rules.

The programming on KFWD is exempt from the Commission's captioning requirements under the "new network" exemption. Pursuant to Section 79.1(d)(9)³ of the FCC's closed captioning rules, a new network is exempt from the obligation to caption network programming during the first four years of the network's operations. KFWD is an affiliate of the MundoFox network which launched on August 13, 2012; thus, the MundoFox programming on KFWD is exempt from the Commission's closed captioning obligations until August 2016. The Commission's closed captioning rules balance the needs of hearing impaired viewers against the economics of beginning a new broadcast television network. The Commission provided a four year exemption for new networks because it recognized the economic burden that providing closed captioning places on television networks. In adopting the rule, the Commission noted that the additional costs borne by nascent networks to caption their programming may deter entry by networks like MundoFox.⁴ The Commission's rules instead "allow new and innovative services designed to serve emerging or niche markets greater flexibility than more established services serving well defined markets."⁵ Requiring new television networks to provide closed captioning for all of its programming would result in extremely high costs that would threaten these networks' very ability to provide programming at all.⁶

Even if the new network exemption were not available for MundoFox, KFWD would also qualify for the three million dollar gross revenue exemption. Under §79.1(d)(12) of the Commission's rules, a provider is not required to expend funds to caption programming on a channel grossing less than three million dollars in annual revenues during the preceding calendar year beyond the existing obligation to pass through captioning already embedded by the distributor. The Commission has clarified that the \$3,000,000 annual gross revenue limit applies to each multicast stream that a broadcast television station airs.⁷ The Commission created this exemption because requiring captioning would place an economic burden on small providers that are unable to expend extra resources on captioning.⁸ HIC's annual gross revenues from KFWD's primary stream fell below the three million dollar mark for 2013.⁹ Therefore, the station is not required to spend additional money in 2014 to caption any programming that does not already contain captions.¹⁰

Notwithstanding these exemptions, HIC is aware of its closed captioning obligations and takes those obligations seriously. As such, the station has monitoring systems in place to ensure that the station's equipment properly passes through all captions embedded within the station's programming. If a problem is discovered, station personnel work to research and resolve the issue as quickly as possible. KFWD provides several mechanisms, including both phone and email, by which viewers can inform the station of closed captioning problems. A station representative receives and responds to all viewer comments or complaints within 24 hours or one business day.

³ 47 C.F.R. § 79.1(d)(9).

⁴ Closed Captioning and Video Description of Video Programming, 13 FCC Rcd 3272, 3346 ¶ 154 (1998).

⁵ *Id.* at 3399 ¶ 294.

⁶ *Id.* at 3346 ¶ 154.

⁷ Closed Captioning of Video Programming, 29 FCC Rcd 2221, 2283-86, ¶¶ 107-09 (2014).

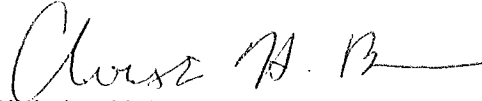
⁸ Closed Captioning and Video Description of Video Programming, *Supra* at Note 3, 3350 ¶ 164.

⁹ See attached Declaration of Wayne Casa. HIC is not providing detailed financial information because the relevant programming is also exempt under the new network exemption.

¹⁰ 47 C.F.R. § 79.1(d)(12).

HIC submits that it provides local viewers with closed captioning information that fulfills its obligations under the FCC's rules. HIC takes great pride in serving the Dallas-Ft. Worth area and continually reassesses its service to the community. If you have any further questions or concerns, please do not hesitate to contact us directly.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Christina H. Burrow", with a horizontal line extending to the right.

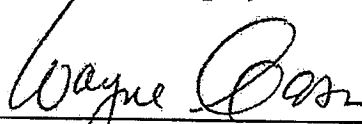
Christina H. Burrow
Henry H. Wendel

Attachment

cc: DROinquiries&complaints@fcc.gov (via e-mail)
Mr. Rod Hale (via certified mail)

DECLARATION OF WAYNE CASA

1. My name is Wayne Casa and I am General Manager of HIC Broadcast, Inc., licensee of KFWD(TV).
2. KFWD(TV)'s primary stream grossed less than three million dollars in annual revenues during the 2013 calendar year.
3. I have read the foregoing letter prepared in response to the FCC's Notice of Informal Complaint and believe it to be true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry.



Wayne Casa
General Manager
November 12, 2014